

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MAX TRUCKING, LLC,

Plaintiff,

v.

LIBERTY MUTUAL INSURANCE
CORPORATION,

Defendant.

CASE NO. 1:12-CV-60

HON. ROBERT J. JONKER

ORDER

This matter involves a dispute between a trucking company and a Workers Compensation insurance provider over the proper classification of truckers who operate through the plaintiff. The ultimate dispute will require characterization of the truckers as employees or independent contractors. The Court initially had concerns about whether the case belonged in federal court – at least at this time. The parties responded to that concern (docket ## 26-27), and the Court has chosen after review of those briefs not to invoke any abstention doctrine. Instead, the case has proceeded through discovery, which closed on October 31, 2012. Dispositive motions are not due until November 30, 2012, but Plaintiff filed one early (docket # 30). At the time of filing, there were still over 60 days left in the discovery period, and Defendant responded to the Motion seeking either denial outright, or at least postponement until the close of discovery (docket # 36). The Court entered the order the Defendant proposed giving the Defendant an additional seven days to respond (docket ## 35, 37). The Court also added its own language denying the motion to postpone, without prejudice (docket # 37). The motion was set for hearing (docket # 34).

A review of the record indicates that Defendant did not file any additional response to the early Summary Judgment Motion by the deadline of September 21, as established in docket # 37. In reviewing the record of the motion as it stands, the Court sees no value to a hearing at this time. Defendant stated in its original response that it was still gathering the information in discovery necessary for a complete response to the Plaintiff's position, and that statement is credible in light of the ongoing discovery period. Moreover, characterization of workers as employees or contractors is an intensely fact specific enterprise, even apart from the disputes between the parties over whether Plaintiff cooperated in the insurance company audits. The issues framed by the pending motion are better decided by dispositive motions prepared in light of all the discovery completed in the case.

Accordingly, Plaintiff's Motion for Summary Judgment (docket # 30) is **DENIED** at this time. The denial is without prejudice to submission of the same issues in a timely motion filed in light of the entire record in the case after plenary discovery. The hearing currently set for November 9, 2012, is **CANCELLED**.

IT IS SO ORDERED.

Dated: November 5, 2012

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE